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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,301	09/26/2001	Myron K. Gordin	P04278US5	1091

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EXAMINER

YIP, WINNIE S

ART UNIT PAPER NUMBER

3637

DATE MAILED: 02/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/964,301

Applicant(s)

GORDIN ET AL.

Examiner

Winnie Yip

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 9,20,22,29 and 32-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8,10-19,21,23-28,30,31 and 43-46 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This office action is in response to applicant's amendment filed on December 4, 2002.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

1. Claims 9, 20, 22, 29, 32-42 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected specie, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 8, 10-14, 16-19, 21-28, 30-31, and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Okuto et al. (US Patent No. 3,865,498).

Okuto et al. show and teach a system for rigidly elevating one or more structures (2) in an elevated position, comprising a concrete base means (3) positioned in a desirable location in the ground at the site, said concrete base means (3) having an upper tapered upper section (1') extending above the ground and a lower section (3') inserted into the ground, a pole section means (1) including a plurality of pole sections each being made of hollow metal sheet and having a lower open end, each of the pole section having total length being greater than the

Art Unit: 3637

length of the base, each of the pole being tapered along its entire length and each being slip fitted over one and other to form a single extended pole, a sealant is applied between the lower end of each pole section means and the upper end of the lower pole section means or to the upper section of the base means for locking sections together, and the locked pole section being raised into vertical position by means of lifting machine and an oil pressure jack (see col. 3, line 42), wherein the lowest pole section is slip-fitted onto the base means above the ground but generally near the ground.

In regard to claims 30-31, wherein the lower section of the base means of Okuto et al. , as common engineering practice, is moved into a pre-excavated hole in the ground, and is fixed in the foundation after the remaining areas of the hole being filled with concrete material as claimed.

Claim Rejections - 35 U.S.C. 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8, 10-19, 21, 23-28, 30-31, and 43-46 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Centrecon (applicant's prior art as shown in Figure 2).

Centrecon shows and teaches, a "steel and concrete combination lighting pole" for sportslighting applications (see module "SPRORTSLINER II-50 or prior art Fig. 2), comprising

a pole structure including a concrete base means having a lower section being inserted into the ground and an tapered upper section extending outward from the ground, a metal pole section means having a lower open end including an interior bore, said interior bore extending axially and inwardly from the lower open end and having a generally tapered inside diameter being slip-fitting over at least a portion of the tapered upper section of the base means, wherein the matching portions of the tapered interior bore of pole section means and the tapered upper section of the base means provide a "slipfitter" that provides a means for positioning the pole section means onto the base means above the ground, wherein the base means including reinforcing means inherently providing suitable strength, height, and weight for supporting the pole section means, and the pole section means is tapered along its entire length and has an elongated frusto-conical shape, and an upper section of the pole section means capably receiving mounting means for connecting lighting structure to be elevated.

Although Centrecon (or the prior art Fig. 2) does not show the pole structure being positioned its lower open end of the pole section above but generally near the ground. To determine how "near" to positioning the pole to the ground would have been obvious matter of design choice as depend upon the constructions of the pole and the base to be selected. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Steel and Concrete Combination Lighting Pole" of Centrecon (the prior art of the applicant's Figure 2) having the base means with the upper section having a preselected length shorter than the length of the pole and having slightly larger diameter at the location near the ground than the diameter of the end of the pole as an old and well know method for stacking tapered tubular members in slip-fit together such that the pole section means is capably stop with the lower end

Art Unit: 3637

above but generally near the ground as an obvious matter of design choice as depended upon how height and how heavy of the pole that needs to be supported in a elevated position.

Regard to claims 7 and 15, adjusting of dimensions of the matching tapered sections of the base means and the pole section means would have been accomplished as desired as to accommodate variety of applications.

Regard to claims 21, 23-27, 30, and 43, the pole structure as claimed would have been obvious produced by the steps as taught by Centrecon as discussed set forth above.

Regard to claim 44-46, Centrecon is considered to teach a method of elevating one of the pole structures as claimed. Further, to elevate more than one pole structures would have been obvious to one ordinary skill in the art.

6. Claims 18 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Centrecon as applied to claim 1 and 21 above, and further in view of Jatcko (US Patent No. 3,713,262).

The claims are considered to be met by Centrecon as explained and applied above rejections except that Centrecon does not define the pole structure comprising a plurality of pole section means fitting sequentially over one another as claimed. However, Jatcko teaches, as a common engineering practice, having a pole structure (10) formed by a plurality of pole sections (10a-10c) each having a tapered diameter generally matching and slip-fitted one over and other. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the pole structure of Centrecon having more than one pole section means being sequentially fitted one over another as taught by Jatcko ,as an old and well known method, for

Art Unit: 3637


extending the length of the pole structure and reducing the weight of the pole section means to be easily elevated.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Winnie Yip
Examiner
Art Unit 3637

wsy
February 24, 2003